

MINUTES
WEBER COUNTY COMMISSION
Tuesday, January 2, 2018 - 10:00 a.m.
Commission Chambers, 2380 Washington Blvd., Ogden, Utah

In accordance with the requirements of Utah Code Annotated Section 52-4-203, the County Clerk records in the minutes the names of all persons who appear and speak at a County Commission meeting and the substance "in brief" of their comments. Such statements may include opinion or purported facts. The County does not verify the accuracy or truth of any statement but includes it as part of the record pursuant to State law.

WEBER COUNTY COMMISSIONERS: James H. "Jim" Harvey, Kerry W. Gibson and James Ebert.

OTHER STAFF PRESENT: Ricky D. Hatch, County Clerk/Auditor; Christopher Crockett, Deputy County Attorney; and Fátima Fernelius, of the Clerk/Auditor's Office, who took minutes.

- A. WELCOME** – Commissioner Ebert
- B. INVOCATION** – Moment of Silence
- C. PLEDGE OF ALLEGIANCE** – Kassi Bybee
- D. THOUGHT OF THE DAY** – Commissioner Harvey

E. CONSENT ITEMS:

1. Ratify warrants #1308-1316 & #424019-424345 in the amount of \$1,357,729.68 dated 12/26/2017.
2. Warrants #1317-1319 and #424346-424452 in the amount of \$1,198,964.90.
3. Ratify purchase orders in the amount of \$235,253.40 dated December 31, 2017.
4. Purchase orders in the amount of \$477,021.21.
5. Minutes for the meetings held on December 12 and 19, 2017.
6. ACH payment to US Bank for \$145,491.72 for purchasing card transactions made through 12/26/2017.
7. Ratify new beer licenses.
8. A new business license.
9. Retirement agreement with Carla Cordova.

Commissioner Gibson moved to approve the consent items; Commissioner Ebert seconded.
Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey - aye

F. ACTION ITEMS:

1. APPOINTING A CHAIR AND VICE CHAIR FOR THE WEBER COUNTY COMMISSION.

Commissioner Ebert move to appoint Commissioner Harvey as Chair and Commissioner Gibson as Vice Chair for the Weber County Commission for 2018; Commissioner Gibson seconded.
Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey – aye

2. RESOLUTION APPOINTING MEMBERS TO THE PLAIN CEMETERY BOARD – RESOLUTION 1-2018.

Stacy Skeen, of the Commission Office, stated that the statute regarding noticing vacancies was followed. The terms of two members expired and those members were the only ones who applied.

Commissioner Gibson moved to adopt Resolution 1-2018 reappointing Monette Panter and Jeff East to the Plain Cemetery Board with terms expiring 12/31/2021; Commissioner Ebert seconded.
Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey - aye

3. FIRST READING OF AN ORDINANCE MODIFYING THE FEE SCHEDULE FOR PEERY'S EGYPTIAN THEATER.

Kassi Bybee, Ogden Eccles Conference Center General Manager, stated that it had been 5+ years since there was a fee adjustment.

Commissioner Gibson moved to approve the first reading of an ordinance modifying the fee schedule for Peery's Egyptian Theater; Commissioner Ebert seconded.
Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey – aye

4. RESOLUTION CREATING THE OGDEN MUSICAL THEATER ADVISORY BOARD – RESOLUTION 2-2018.

Kassi Bybee, Ogden Eccles Conference Center General Manager, read the mission statement stating that they have been very successful in bringing on Musical Theater and wish to create this board.

Commissioner Gibson moved to adopt Resolution 2-2018 creating the Ogden Musical Theater Advisory Board; Commissioner Ebert seconded.
Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey - aye

5. RESOLUTION APPOINTING A MEMBER TO THE GOLDEN SPIKE EVENT CENTER (GSEC) ADVISORY BOARD – RESOLUTION 3-2018.

Duncan Olsen, with the GSEC, presented the request to appoint Shae Hill and to reappoint Greg Boyer.

Commissioner Gibson moved to adopt Resolution 3-2018 appointing Shae Hill (through 12/31/2021) and reappointing Greg Boyer (through 12/31/2021) to the GSEC Board; Commissioner Ebert seconded.
Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey - aye

6. **RESOLUTION APPROVING PARTICIPATION OF THE WEBER COUNTY MUNICIPAL BUILDING AUTHORITY (MBA) IN THE UTAH COUNTIES INDEMNITY POOL AS A SEPARATE COUNTY RELATED ENTITY MEMBER – RESOLUTION 4-2018.**

Christopher Crockett, Deputy County Attorney, stated that recently the county approved an amendment to the Interlocal Agreement with UCIP and the MBA. The MBA approved it the following week. The MBA is now going to be a separate county related member and needs to be sponsored by a current organization.

Commissioner Ebert moved to adopt Resolution 4-2018 approving participation of the Weber County Municipal Building Authority in the Utah Counties Indemnity Pool as a separate county related entity member; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey - aye

7. **APPROVAL TO SPEND IMPACT FEES (\$24,402.50) AND OTHER COUNTY FUNDS (\$20,000) FOR THE WOLF CREEK DRIVE PATHWAY (WOLF CREEK EDEN).**

Sean Wilkinson, County Community & Economic Development Director, stated that the pathway project in the Ogden Valley is progressing well. Last year the county committed \$50,000 in impact fees to this project. The remaining impact fees commitment totals \$24,402.50. In addition, the county received \$20,000 from the movie filming project on the North Ogden Divide recently and those funds are being used for this project as well for a project total of \$44,402.50. Other partners, UDOT and Capon Capital, have contributed funds. Commissioner Ebert asked if there are impact fees that can be used for the Valley beyond the \$24,000 for this project and Mr. Wilkinson explained that there are. Commissioner Ebert recommended keeping the \$44,402 figure but use \$10,000 of the \$20,000 for the Ogden Valley Community Foundation, which does a lot of work for Ogden Valley and has tremendous value, with an additional \$10,000 coming from impact fees. Mr. Wilkinson responded to Commissioner Gibson’s question stating that the full request is for approximately \$59,000 but a portion of that will have to come from other entities contributing to this project because the county’s portion is limited to the original \$50,000 commitment.

Commissioner Ebert moved to approve spending \$34,402.50 from the impact fees and another \$10,000 from other county funds for the Wolf Creek Drive Pathway (Wolf Creek Eden) project, and also \$10,000 to be given to the Ogden Valley Community Foundation; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey - aye

8. **CONTRACT WITH OGDEN/WEBER CVB TO AMEND THE COMPENSATION & LENGTH OF AGREEMENT.**

This item was handled last week.

9. **CONDITIONAL USE REQUEST FOR THE FAIRWAYS AT WOLF CREEK PRUD AMENDMENT 3. THE AMENDMENT WILL REDUCE THE DENSITY IN THE MULTI-PHASED PRUD FROM 99 UNITS TO 90 UNITS AND AMEND THE LAYOUT OF THE PREVIOUSLY APPROVED PRELIMINARY SUBDIVISION PLAN.**

Ronda Kippen, of the County Planning Division, showed area and conceptual maps stating that the applicant desires to reconfigure the design layout of the Fairways at Wolf Creek PRUD (Fairways) for Phases 4-5. The original Wolf Creek Conditional Use Permit (CUP) assigned 122 units to Fairways. When they reconfigured the Zoning Development Agreement (ZDA) in 2014-15 they lost about 16 development rights. The applicant/owner of Fairways, Russ Watts, wishes to reduce the previously allocated density rights/units in Fairways from 99 to 90 units in order to increase the lot sizes (for larger home sizes, which is what is driving the market). He will hold the remaining 9 units, which will be combined with the existing 11 density rights, for an overall 20 development rights, in reserve to be sold, assigned or transferred at a later date. Prior to the applicant being able to sell, assign or transfer any density rights, he will be required to receive a positive recommendation from the Ogden Valley Planning Commission (Planning Commission) and receive approval by the County Commission before such a transaction could occur. The Wolf Creek Resort ZDA, including the conceptual maps, would need to be amended to show the new density location within the Wolf Creek Master Planned Development.

The modifications have been marked on the maps. The amendment will not affect any of the remaining density rights owned throughout Wolf Creek. The Planning Commission recommended approval of this request based on the following: a) that the request to amend the concept development map is allowed per the previously approved ZDA, b) that it is in the best interest of both the applicant and the county to have such a map that is viable and harmonious with the Ogden Valley General Plan, c) that the amendment to the conceptual design will facilitate the required site improvements in a manner that will coincide with the vision of the area that will be more desirable for future residents, d) that the amendment is not detrimental to public health, safety or welfare and e) that the proposal will not deteriorate the general area environment so as to negatively impact surrounding properties and uses.

Ms. Kippen said that this proposal confirms to the Valley's General Plan by encouraging development within existing resort-related areas. The lot areas in the FR-3 Zone require a minimum of 6,000 sq. ft. The PRUD allows lesser setbacks and the following is proposed: front yard setbacks of 15 ft.; side yard of 10 ft.; rear yard of 15 ft.; and the side-facing street of 15 ft. Lots 14-16 need to have a "No Access Note" and a "No Access Line" on the plat and will have access from Fairways Trail. She said that there is a road to be constructed in the future and her understanding is that the developer would like to work with the other area developers to finish that connection along Fairways Drive to 4100 North to make a clear connection from Wolf Creek to 4100 North to complete the connection to the North Ogden Divide.

During the subdivision review there were geotechnical and geological reports provided and notes will be on the plat stating that these reports are available at the County Planning Division to provide disclosure. No hazards were found, however, the geotechnical and geologic engineers want the geotechnical engineer on site during excavation of these homes to ensure nothing hazardous is found. County Engineering and the Fire District recommended approval and a review is anticipated from the Surveyor's office soon. The applicant would like to have the ability for nightly rentals in the PRUD (which is typical in the Wolf Creek area) in phases 4 and 5. If the County Commission approves this option then a notice is to be placed on the plat. This proposal does not include lockout sleeping rooms. With the No Access Line on the northern lots safety and traffic congestion is not anticipated. The county will ask for detailed landscaping plans for the open space and screening during the final subdivision process, and a condition has been made to ensure this occurs. The HOA will manage these. County legal counsel will need to review those plans. The architectural standards still match the remaining part of Fairways. The applicant provided civil engineering drawings and they are in compliance with previous approval for the Wolf Creek Resort Development Agreement. She said that property owners at the last Fairways discussions before the County and Planning Commissions were upset because the developer had not complied with the promised club house in Phase 3 but this has been taken care of. No current taxes are due on this property.

Ms. Kippen addressed Commissioner Ebert's questions stating that the waterway will tie into the common area and flow into the basin and that there will be three ingresses/egresses. Chair Harvey asked the applicant's representative, Rick Everson, if he had any comments and he did not.

Commissioner Ebert moved to approve the Fairways at Wolf Creek PRUD Amendment 3 reducing the density in the multi-phased PRUD from 99 units to 90 units and amending the layout of the previously approved preliminary subdivision plan; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey - aye

G. PUBLIC HEARINGS:

1.

Commissioner Ebert moved to adjourn the public meeting and convene the public hearings; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey - aye

2. PUBLIC HEARING REGARDING WOLF CREEK RESORT DEVELOPMENT AGREEMENT AMENDMENT 3.

See item F.9 above. Ronda Kippen, of the County Planning Division, stated that something similar to today's request was done in the second amendment, which was recorded on July 5, 2016 (when the density was reduced from 115 dwelling units to 99, 5 density units were relocated to Trappers at Wolf Creek and 11 density rights were held in reserve to be transferred at a later time). The applicant is now requesting that the remaining 9 density units from Fairways be held in reserve to be transferred, sold, or assigned at a later date. The overall approved units to be held in reserve are 20 and any proposal for transfer or sale will have to come before the Commission. Ms. Kippen noted that it is the Commission's decision whether these units remain in Wolf Creek or are relocated outside of the Master Planned Development. Based on staff's analysis, the proposal conforms to the 2016 Ogden Valley General Plan by encouraging development within existing community areas, by providing incentives for developers to preserve open space by clustering development and balancing commercial and residential. She outlined the summary for the Commission's considerations for approval. The Planning Commission recommended approval of the third amendment to the Wolf Creek ZDA by amending the Conceptual Development Maps as part of the ZDA to allow for a reduction in density rights in the Fairways from 99 to 90 and to hold the remaining 9 density rights in reserve to be sold, transferred or assigned at a later date but only after receiving County Commission approval. The recommendation is based upon the findings in the staff report.

Chair Harvey invited public comments and none were offered.

Commissioner Ebert moved to adjourn the public hearing and reconvene the public meeting; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey – aye

Commissioner Ebert moved to reconvene the public hearing; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey – aye

3. **PUBLIC HEARING TO DISCUSS AND TAKE COMMENT ON A PROPOSAL TO AMEND THE FOLLOWING SECTION OF WEBER COUNTY CODE: PRUD AREA & RESIDENTIAL DENSITY REGULATIONS (108-5-5) TO OFFER MORE FLEXIBILITY TO THE NUMBER OF ALLOWED DWELLING UNITS IN A PRUD AND TO INCREASE OPEN SPACE REQUIREMENTS IN EXCHANGE FOR THE FLEXIBILITY.**

Charles Ewert, of County Planning, presented the applicant's request to amend the Planned Residential Unit Development code (PRUD) to provide more flexibility regarding the minimum number of dwelling units allowed. Currently code requires a minimum of 10 acres with at least 24 residential units within non-residential zones. The applicant originally requested to adjust the number to six residential units in exchange for 80% perpetual open space and at least 20 acres. The Western Weber County Planning Commission unanimously recommended approval. The Ogden Valley Planning Commission unanimously recommended denial (this change has a bit more impact to Ogden Valley). They felt strongly that the Cluster Subdivision Code already a) requires as much as 90% open space in the F-40 Zone, 80% in other F Zones and 60% in AV-3 Zone, b) that the PRUD code provides a lot of flexibility for applicants and c) currently a PRUD is required to be approved as an administrative approval and they would be more amenable to the proposal if it was by legislative approval.

The applicant had responded to the County Commission regarding the Ogden Valley Planning Commission's concerns and stated that they would be willing to go up to 100 acres minimum with 90% open space—but this did not go before that Planning Commission. The Planning Commission had previously asked county staff to work on amendments to the PRUD and they will be reviewing amendments at tonight's meeting. There was some discussion and Mr. Ewert said that it was best to wait on making a decision because the proposed amendments are part of a larger, more complex whole.

Jill Jacobsen, petitioner, Park City resident, stated that she represented other parties and that this petition would allow a broader use of the PRUD, that it would still preserve a great amount of land/open space and allow for less density, and that it would allow them to develop now rather than after code changes.

4. Public comments: Chair Harvey invited public comments and none were offered.

- 5.

Commissioner Gibson moved to adjourn the public hearing and reconvene the public meeting; Commissioner Ebert seconded.

Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey – aye

6. **ACTION ON PUBLIC HEARING:**

G-2.-APPROVAL OF WOLF CREEK RESORT DEVELOPMENT AGREEMENT AMENDMENT #3.

Commissioner Ebert moved to approve the Wolf Creek Resort Development Agreement Amendment #3; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey – aye

G-3.-REQUEST TO AMEND THE PRUD AREA AND RESIDENTIAL DENSITY REGULATIONS (108-5-5) CODE TO OFFER MORE FLEXIBILITY TO THE NUMBER OF ALLOWED DWELLING UNITS IN A PRUD AND TO INCREASE OPEN SPACE REQUIREMENTS IN EXCHANGE FOR THE FLEXIBILITY.

Commissioner Gibson moved to adjourn the public hearing and reconvene the public meeting; Commissioner Ebert seconded.

Commissioner Gibson – aye; Commissioner Ebert – aye; Chair Harvey – aye

Commissioner Gibson stated that the ability to use bonus densities needs to be in a master plan for incentivizing behavior but what has been occurring, particularly with the PRUD regulations, has led to great concerns on how bonus densities are applied and how much for both the lower and upper valleys. He agrees with Commissioner Ebert and Mr. Ewert that this item might be best reviewed as a whole because this is a small piece of a much larger, complex discussion. This is a real challenge and he would like to have more information before making a decision. He would prefer denying the petition at this time.

Chair Ebert noted that the petitioner was willing to work with staff and recommended they work together to see if they can find some resolution, and that staff continue working on the PRUD regulations. He also felt it was best to table any decision at this time. Rick Grover, County Planning Division Director, said that the Commission could table the item but requested a time certain date to come back before them, such as the first part of March.

Commissioner Ebert moved to table the item to March 6, 2018 and requested that staff continue working with the petitioner to see if they can find resolution to their specific issues, and if not, the petitioner can come back before the Commission; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

See item F.9 above. Ronda Kippen, of the County Planning Division, noted that the applicant had just indicated to her that after he received the staff report for item F.9 (CUP for the Fairways at Wolf Creek PRUD Amendment 3), he had started finessing with the engineer’s drawings for the setbacks, and he wanted to change the front yard setback from 15 to 10 ft., a side yard setback from 10 to 5 ft., the rear from 15 to 10 ft., a side yard facing street from 15 to 10 ft. There is a 66 ft. right-of-way through there and with the 15 ft. setback it would put them around 45 ft. away from the street and they would like to be closer to the street and have a larger back yard.

Rick Everson, with Watts Enterprises, apologized for the mix up stating that he had been on vacation last week and did not have the chance to look at this more closely. He said that the setbacks in the staff report are more than adequate and the request for the reduction is for a select few. He would like the rear and front setbacks to be 10 ft. The right-of-way has 14½ ft. built into it from the curb. With 10 ft. front setbacks the homes would still be about 25 ft. from the pavement. The row of lots that ties into Patio springs have a cross slope and the further they are pushed away from the road the more drop off to the golf course or the more hillside excavation needed. The lots range from 10,000-15,000 sq. ft., and some are larger.

Commissioners Harvey and Ebert expressed concerns regarding snow storage and Mr. Everson believed that was the reason for the 66-ft. county right-of-way and the 14½ ft. built-in setback, and said that there are also many common areas that could be utilized for snow storage. Chair Ebert would like the County Roads Department to review this to ensure that reducing the setbacks would not be an issue. He is also concerned with a 5-ft. side setback, stating that is too close—that a fire needs a collapsible zone and especially if there are bushes, etc., getting around a house may be problematic for fire mitigation. Ms. Kippen stated that typically lots in a PRUD will show the special setbacks on the recorded plats and these are reviewed when going through the land use permit process to ensure they are adequate. She said that the related condition #6 from the staff report could be amended to say that the final subdivision plat will address the adjusted setbacks. Other items are also addressed during the final subdivision process.

Commissioner Ebert moved to amend the previous motion on this item to include that the final subdivision plat will address the adjusted setbacks; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

H. PUBLIC COMMENTS: None.

I. ADJOURN

Commissioner Ebert moved to adjourn at 11:28 a.m.; Commissioner Gibson seconded.

Commissioner Gibson – aye; Commissioner Harvey – aye; Chair Ebert – aye

Attest:

Chair James H. “Jim” Harvey, Chair
Weber County Commission

Ricky D. Hatch, CPA
Weber County Clerk/Auditor